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FACEBOOK, INC.

10 UNITED STATES DISTRICT COURT
11 NORTHERN DISTRICT OF CALIFORNIA
12 SAN FRANCISCO DIVISION

14 FACEBOOK, INC.,

15 Plaintiff,

16 v.

17 POWER VENTURES, INC. a Cayman Island
corporation, STEVE VACHANI, an individual;
18 DOE 1, s/b/a POWER.COM, DOES 2-25,
inclusive,

19 Defendants.
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Case No. 5:08-cv-05780-JW (JCS)

**DECLARATION OF I. NEEL
CHATTERJEE IN SUPPORT OF
REPLY MEMORANDUM IN SUPPORT
OF FACEBOOK'S MOTIONS FOR
PARTIAL SUMMARY JUDGMENT
UNDER : 1) ON COUNT 1 THE CAN-
SPAM ACT; AND 2) CALIFORNIA
PENAL CODE § 502 AND THE
COMPUTER FRAUD AND ABUSE
ACT, 18 U.S.C. § 1030**

Date: January 23, 2012
Time: 9:00 A.M.
Dept: Courtroom 9, 19th Floor
Judge: Hon. Chief Judge James Ware

1 I, I. Neel Chatterjee, declare as follows:

2 1. I am a partner at the law firm of Orrick, Herrington & Sutcliffe, LLP, counsel for
3 Facebook, Inc. in the above-referenced matter. I make this declaration in support of Facebook's
4 Reply Memorandum in Support of its Motions for Partial Summary Judgment on: 1) Count 1
5 Under the CAN-SPAM Act; and 2) California Penal Code Section 502 and the Computer Fraud
6 and Abuse Act, 18 U.S.C. Section 1030. I have personal knowledge of the facts stated herein and
7 could testify competently thereto if called to do so.

8 2. Defendants complain that citation to this an email written by their former CEO,
9 Robert Pollock, "tramples the attorney-client privilege" because it allegedly summarizes a
10 discussion he had with one of the company's trial attorneys about why Facebook would receive
11 summary judgment. However, the email is one of several documents produced by Defendants on
12 November 2, 2011, and discussed during a meet-and-confer session of counsel held at a discovery
13 hearing on November 4, 2011. At that conference, I sought confirmation that Defendants were
14 not asserting privilege over any of the produced documents. During that discussion, Mr. Fisher,
15 Defendants' counsel, confirmed Defendants intended to produce all of the documents that were
16 produced on November 2, including this email, and that Defendants were not asserting privilege.

17 3. Attached hereto as **Exhibit 1** is a true and correct copy of a November 2, 2011,
18 email from Timothy Fisher to Morvarid Metanat.

19 4. Attached hereto as **Exhibit 2** is a true and correct copy of a July 18, 2005, chat
20 transcript between Steve Vachani and "abi." [LODGED UNDER SEAL—DESIGNATED
21 "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY" PURSUANT TO
22 PROTECTIVE ORDER]

23 5. Attached hereto as **Exhibit 3** is a true and correct copy of January 4, 2009, email
24 from Steve Vachani to Michael Ross. [LODGED UNDER SEAL—DESIGNATED "HIGHLY
25 CONFIDENTIAL – ATTORNEYS' EYES ONLY" PURSUANT TO PROTECTIVE
26 ORDER]

27 6. Attached hereto as **Exhibit 4** is a true and correct copy of relevant excerpts from
28 the July 20, 2011, deposition transcript of Defendant Steve Vachani. [LODGED UNDER

SEAL—DESIGNATED “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY”
PURSUANT TO PROTECTIVE ORDER]

7. Attached hereto as **Exhibit 5** is a true and correct copy of a January 24, 2011, Notice of Deposition of Craig Clark.

8. Attached hereto as **Exhibit 6** is a true and correct copy of Defendants' October 25, 2010, First Set of Interrogatories to Facebook, Inc.

9. Attached hereto as **Exhibit 7** is a true and correct copy of January 3, 2009, email from Felipe Herrera to Steve Vachani. **[LODGED UNDER SEAL—DESIGNATED “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” PURSUANT TO PROTECTIVE ORDER]**

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge. Executed this 12th day of December, 2011, at Menlo Park, California.

I. Neel Chatterjee